



**CITY OF SUNNYVALE
REPORT
Planning Commission**

October 10, 2005

SUBJECT: **2005-0319 - Wendell L. Whitfield** [Applicant/Owner]:
Application for related proposals on a 16,250 square foot site
located at **461 and 471 South Murphy Avenue** (near Olive
Ave.) in a DSP-11 (Downtown Specific Plan/Block 11) Zoning
District:

Motion **Special Development Permit** to allow the construction of
five town homes;

Motion **Tentative Map** to subdivide existing lots into five townhouse
lots and one common lot.

REPORT IN BRIEF

Existing Site Conditions Two parcels developed with two single-family homes
and mature landscaping.

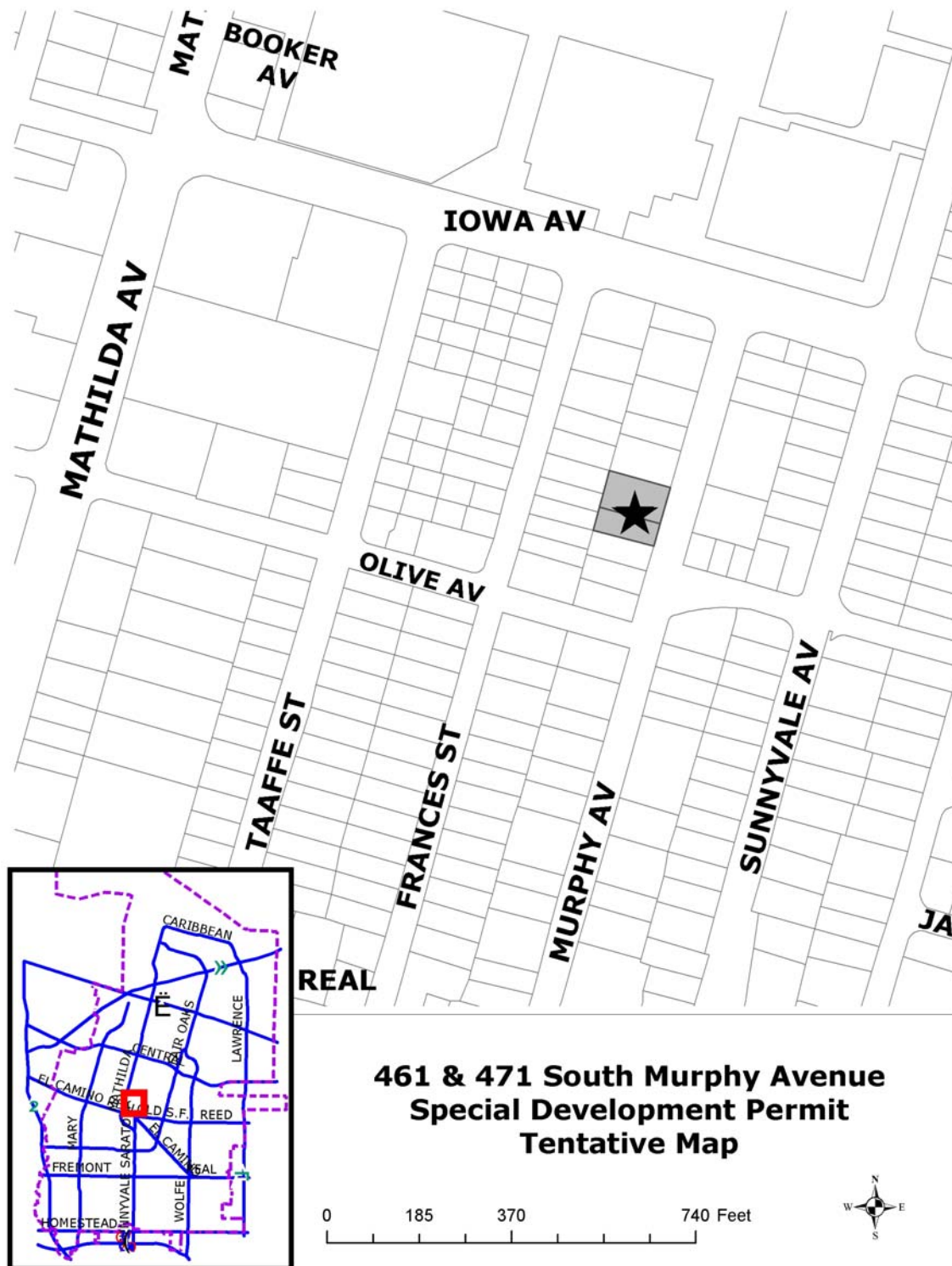
Surrounding Land Uses

North	Apartments
South	Medical Office
East	Apartments, Single Family Residential
West	Single Family Residential

Issues Deviations to development standards such as
minimum lot size and decrease of front yard setback.

Environmental Status A Negative Declaration has been prepared in
compliance with California Environmental Quality
Act provisions and City Guidelines.

Staff Recommendation Approve with Conditions



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Downtown Specific Plan	Same	Downtown Specific Plan
Zoning District	DSP, Block 11 (up to 14 du/acre)	Same	DSP, Block 11
★ Lot Size (s.f.)	461 S. Murphy: 9,750 sq. ft. 471 S. Murphy: 6,500 sq. ft. Total: 16,250 sq. ft.	Lot 1: 2,125 Lot 2: 2,150 Lot 3: 2,013 Lot 4: 2,150 Lot 5: 3,310 Lot 6: 4,505 (common lot)	2,600 sq. ft. min.
Gross Floor Area (s.f.)	3,748 sq. ft.	13,004 sq. ft.	No max.
Lot Coverage (%)	23%	45.4%	60% max.
Floor Area Ratio (FAR)	23%	78.2%	No max.
No. of Units	2	5	5 max.
Density (units/acre)	5.4	13.5	14 max.
Meets 75% min?	No	Yes	4 units min.
Bedrooms/Unit	461 S. Murphy: Unknown 471 S. Murphy: Unknown	3 and 4	N/A
Unit Sizes (s.f.)	461 S. Murphy: 1,464 sq. ft. 471 S. Murphy: 1,668 sq. ft.	Unit 1: 2,140 Unit 2: 2,123 Unit 3: 2,059 Unit 4: 2,123 Unit 5: 2,135	N/A
No. of Buildings On-Site	4	2	N/A
Distance Between Buildings	N/A	12' 6"	10 ft. min.

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
Building Height (ft.)	15' 6"	29' 10"	30 ft. max.
No. of Stories	1	2	2 max.
Setbacks (Facing Property)			
Front	21'	15' to 23'	18' min.
Left Side	10' to 12'	12' to 12' 8"	4' min.
Right Side	9' 6"	6' to 9' 8"	4' min.
Rear	5'	25' 6" to 26'	20' min.
Landscaping (sq. ft.)			
Total Landscaping	12,502 sq. ft.	4,354 sq. ft.	3,250 sq. ft. min.
Usable Open Space/Unit	5,000 sq. ft. (approximate)	Unit 1: 579 sq. ft. Unit 2: 590 sq. ft. Unit 3: 599 sq. ft. Unit 4: 628 sq. ft. Unit 5: 1,843 sq. ft.	500 sq. ft. min.
Water Conserving Plants (%)	unknown	75%	70% min.
Parking			
Total Spaces	461 S. Murphy: 1,464 sq. ft. 471 S. Murphy: 1,668 sq. ft.	10	10 min.
Standard Spaces	unknown	10	10 min.
Compact Spaces/ % of Total	0	0	None
Covered Spaces	2	10	5 min.
Guest Spaces	0	0	None
Stormwater			
Impervious Surface Area (s.f.)	unknown	11,896 sq. ft.	N/A
Impervious Surface (%)	unknown	73%	N/A

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

ANALYSIS

Description of Proposed Project

This project was originally proposed and approved in May 2002 by the Planning Commission. Since that time, the applicant did not take any action to execute the permit, thus, that permit expired. The application has been resubmitted in the same form as the 2002 application. The only changes to the plans from the original application were made to comply with original conditions of approval.

The applicant is proposing to demolish and remove two existing single family homes on the two sites and construct a five-unit, two level townhome project with detached garages and carports. On-site improvements will include a new driveway, new landscaping and walkways.

In addition, the project will include a tentative map covering the two existing parcels and result in the creation of six parcels, five for the individual units and one for the common lot.

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
1974-0282 (461 and 471 S. Murphy Ave.)	Use Permit to allow a general office use	Planning Commission/ Approved	8/26/74
1984-0379 (461 and 471 S. Murphy Ave.)	Use Permit to allow a cooking school	Planning Commission/ Approved	7/23/84
2002-0191 (461 and 471 S. Murphy Ave.)	Special Development Permit and Tentative Map for five unit townhomes	Planning Commission/ Approved/Expired 5/13/04	5/13/02

On May 23, 2005, this proposal was reviewed at the Planning Commission Study Session. Comments by the Commission included concerns over the massing and bulk of the proposed project in relation to the existing neighborhood and streetscape. Staff notes that the project meets all development standards except for a front yard setback deviation. However, the deviation does not occur along the entire building frontage. Part of the reason for the setback deviation is to improve the architecture of the building by

having a variable front wall elevation that adds interest to the building. In addition, there are portions of the building that exceed the front yard setback requirement. Lastly, it should be noted that the project is located within a transitional neighborhood that has a mix of single family homes, two level apartments and retail buildings.

Unlike the first time when this project came before the City for review, California Environment Quality Act laws have since changed and required that this proposal first go through a determination of local historic significance to determine the level of environmental review required for this application request. Because the two existing homes are located and listed as part of the 400-500 S. Murphy Block Streetscape, the Heritage Preservation Commission had to make a determination whether the two homes have local historic significance. At the August 17, 2005 meeting of the Heritage Preservation Commission, it was determined that both homes do not have local historic significance.

Environmental Review

A Negative Declaration has been prepared in compliance with the California Environmental Quality Act provisions and City Guidelines. An initial study has determined that the proposed project would not create any significant environmental impacts (see Attachment C, Initial Study).

Special Development Permit

Use: The proposed use consists of low-medium density attached ownership housing. The density is 13.5 du/acre and consists of five units to be located on two parcels totaling 16,250 square feet.

The proposed unit sizes range from 2,059 to 2,140 square feet (not including the garage). Covered parking is provided at the rear of the property. Six spaces are provided within the garages and four are provided in the carport. The building area of the garages and carports total 2,140 square feet.

Site Layout: The proposal includes five attached units facing Murphy Avenue. A driveway along the south property line serves all five lots with covered parking provided at the rear of the lot. The one-lane driveway on the south side is proposed so that two existing Coast Live Oak trees could be retained along the north side of the site.

The proposal includes deviations from the SDP, Block 11 lot size minimum of 2,600 square feet and front yard setback of 18 feet. Staff supports the reduced lot size of the individual lots as a common lot is provided (to be maintained by

a homeowners association) resulting in an average lot area per dwelling unit of approximately 3,250 square feet.

The front corners of the building do not meet the 18-foot setback requirement. Staff supports the reduced front yard setback of 15 feet as it provides building depth variation which improves the exterior appearance of the building. In addition, moving the building back to meet the requirement may cause the rear of the building to extend further out, decreasing the rear yard usable open space, which would be a detriment to the future homeowners.

The entire project meets all other setback and lot coverage standards. Deviations from individual lot coverage are common for attached units. Having the deviation for the front yard setback gives a more interesting “face” to the front of the building. Overall lot coverage is less than the maximum lot coverage requirement of 60%.

The following Guidelines were considered in analysis of the project site design.

Design Guideline (Site Layout)	Comments
City-Wide Design Guidelines	
<i>A5: Minimize paved areas for curb cuts and parking on the street frontage of projects to maintain a continuous and attractive streetscape.</i>	The parking and majority of the paved area would be located in the rear of the site, not visible from the street.
<i>A6: Preserve natural site features such as mature trees, creeks, views, etc. and incorporate into the site design of the new project.</i>	The two mature Coast Live Oak trees will be retained with the proposed site layout
<i>B2: Emphasize the pleasant components of the project such as existing trees and views, and disguise its less desirable scenes such as loading and service areas through placement and design of structures and landscaping.</i>	The project places the parking and service areas to the rear where it is shielded by landscaping and the building.
Downtown Specific Plan Design Guidelines	
<i>A.2 Locate private on-site parking below grade or behind active uses.</i>	The project is locating the parking behind the main building at the rear of the site.
<i>A.6: Provide direct entrances or stoops to street-level residential units such as a porch, platform or staircase, to create an intimate streetscape.</i>	The project incorporates street level porches and entrances directly off of Murphy Avenue.

Architecture: The proposed architecture utilizes many craftsman elements, including hip-gabled and gabled roof forms, large roof overhangs with over-scaled brackets, multi-paned windows, detailed wood window trim, and covered front porches (see Attachment 4, Elevations). The front elevation proposes stonework at the base of the wall. Other exterior materials include stucco, horizontal siding and a simulated tile roof. The front elevation provides a variable wall plane by staggering front setbacks and providing porch entries. The side and rear elevations propose variations in the wall plane by providing room “pop outs” on the right side and having second level room “pop-outs” on the left side. Staff believes that the proposed architecture is consistent with the design guidelines set forth in the Downtown Specific Plan for the South of Iowa District, which call for elements of craftsman style architecture and Sunnyvale’s historic residential architecture.

The proposed building height is 29 feet and 10 inches for the two-story structure, which is almost to the maximum 30-foot building height permitted. This building height is consistent with other two-story structures along this block of S. Murphy Avenue. The apartment building across the street from the subject site at 478 S. Murphy Avenue has a height of 32 feet, and the office building located adjacent to the apartment building at 438 S. Murphy Avenue has a building height of 28 feet, 9 inches. In addition, the proposed building for the subject site has variable setbacks, so that they tallest portions of the structure have a hipped roof form and are set back the furthest from the front property line. Therefore, staff believes that the proposed building height is consistent with the neighborhood and will not have a negative impact on the streetscape.

The following Guidelines were considered in the analysis of the project architecture.

Design Guideline (Architecture)	Comments
City-Wide Design Guidelines	
<i>C9: Include decorative building elements in the design of all buildings. Add more interest to buildings by incorporating changes in wall plane and height, arcades, porticos, trellises, porches, balconies, dormers, windows, opening, etc.</i>	The proposed architecture utilizes many architectural details to create an interesting building façade, including covered front porches, overscaled brackets, bay windows, multi-paned windows, wood window trim, and a variety of exterior materials.

Design Guideline (Architecture)	Comments
<i>C10: Repeat design and decorative building elements in all elevations and the roof not just in the front façade.</i>	The proposed side and rear elevations utilize some of the architectural details from the front façade, including multi-paned windows, wood window trim, overscaled brackets, and a variety of exterior materials.
Downtown Specific Plan Design Guidelines	
<i>B.1: Use variable heights and roof forms to break up the building mass.</i>	The project incorporates varying roof heights along the length of the building and includes various roof elevations.
<i>B.9: Define buildings with three distinct components: base, middle and top. Each component shall have horizontal and vertical articulation.</i>	The project incorporates a stone base, with a wood siding middle area and a stucco treatments at the upper floor of the building, all with varying amounts of articulation.
<i>Roof treatment should include hip gables and gables, large overhangs and dark gray or black roof tiles. (DSP, South of Iowa District)</i>	The proposed roof treatment utilizes both hip gables and gables, large overhangs with overscaled brackets and simulated slate roof tiles.
<i>Building facades should use large covered front porches, horizontal wood siding and detailed wood window trim around residential scaled windows. Building colors should remain flexible; however, loud, bright and strongly contrasting colors should be avoided. (DSP, South of Iowa District)</i>	The proposed front elevation includes covered front porches, a combination of stucco and horizontal wood siding, detailed wood window trim and multi-paned residential windows. The proposed building colors work to achieve a balanced and non-contrasting color scheme.

Landscaping: The Downtown Specific Plan requires that at least 20% of the site be landscaped when surface parking is allowed. In addition, the Downtown Specific Plan states that low-medium density projects provide a minimum of 500 square feet of open space per unit. The proposal exceeds the landscaping and open space requirements by providing 4,354 square feet of landscaping (27%) and each unit having over 500 square feet of usable open space.

There are two significant Coast Live Oak trees located along the northern property line. The site design accommodates these mature trees. Significant pruning will be required in order to construct the building; however, the City Arborist has indicated that with the appropriate foundation style, the structure can be built adjacent to these trees without causing damage to the trees or the structure. Staff recommends Conditions of Approval No. 10, which requires a

tree protection plan for the two trees that includes protection of the trees during construction and tree pruning conducted in such a way as to preserve the health of the trees while making room for the structure.

There are various other trees within the site that will be removed as a result of the development. In addition to some smaller trees, proposed removals include a Redwood tree at the rear of the property with a 24-inch diameter, an Almond tree at the rear of the property with a 13-inch diameter, and a Magnolia tree in the center of the property with a 12-inch diameter. The Redwood tree is in the proposed parking area, and it is routinely topped due to its interference with overhead wires. The Almond tree is also in the proposed parking area, and it has reasonably good structure and form, although there are many dead branches. The Magnolia tree is in the proposed building area, and it appears to be in good health, although it has a potentially problematic structure that could lead to weakness.

It should be noted that the landscaping plans show a dog run near the northwest corner of the site. However, after further discussion with the applicant, this was labeled incorrectly and would instead be additional landscaping for the project.

The following Guidelines were considered in analysis of the project landscaping.

Design Guideline (Landscape)	Comments
<i>City-Wide and Downtown Specific Plan Design Guidelines</i>	
<i>A2 and C.2: Preserve and incorporate existing natural features, particularly trees, on a site into the landscape design of projects.</i>	The project will retain two Coast Live Oak trees within the project.
<i>A4: Properly landscape all areas not covered by structures, driveways, and parking.</i>	The site exceeds the total landscape requirement of 20% and will add trees to the site.
<i>A6 and C.4: Choose a variety of plant material with different textures and colors. Use water-wise plant material, as specified in the Landscape regulations.</i>	The project is exceeding the 70% requirement of water conserving plant material and is providing a wide variety of plant material.

Parking/Circulation: Two covered spaces are provided for each unit, which exceeds the parking requirement of five covered spaces. The covered parking is provided through six garage spaces and four carport spaces in the rear of the property within the individual private lots. Because the parking is provided within the private lots, there is no shared parking provided. Staff notes that there will be approximately five parking spaces available for guests to use along the public street in front of this property.

Circulation is provided off of a one-lane driveway at the south end of the site. Due to low vehicle volume the single lane is considered adequate for the site.

The following Guidelines were considered in analysis of the project parking and circulation.

Design Guideline (Parking/Circulation)	Comments
<i>A3: Limit curb cut entries into project sites to maintain sidewalk and streetscape continuity. Shared driveway access on adjacent non-single family properties is encouraged.</i>	The project is proposing only one curb cut. It is a reduction from the existing condition of two separate curb cuts.

Tentative Map

General: The tentative map proposes the subdivision of two existing parcels into five townhome lots and one common lot. The five individual townhome lots range in size from 2,013 square feet to 3,310 square feet, with a common lot size of 4,505 square feet. Four of the proposed parcels do not meet the required minimum individual lot size of 2,600 square feet. This minimum lot size standard was created anticipating single family detached homes. However, townhomes are consistent with the uses permitted in this block of the Downtown Specific Plan. The reduced individual lot sizes do not result in a higher density than permitted for the site. Staff recommends Conditions of Approval No. 3 requiring the formation of a homeowners association and CC&R's allowing for the joint use and maintenance of the common area.

Access: The proposed project provides driveway access along the south property line. The driveway width will only accommodate one vehicle direction at a time. With only five units using the driveway, staff does not anticipate major problems with a one-lane driveway. This drive aisle and rear yard area make up the common lot. The covered parking spaces are provided in garages and carports that are located on the individual lots. Although the site can only be accessed through the one-lane drive, staff is supportive of the circulation pattern, as it will work to preserve significant on-site trees.

Right of Way and Undergrounding: The applicant will install a new driveway and replace the curb, gutter and sidewalk where the existing driveways meet the public street. In addition, the applicant is required to underground proposed service drops and existing overhead utilities at the rear of the lot.

Park In-Lieu Fee: The developer will be required to pay Park In-Lieu fees prior to approval of the Final Map by the Director of Public Works (See Condition of Approval No. 7B)

Transportation Impact Fee

This project is subject to the Transportation Impact Fee for the net increase of three residential units. Condition of Approval # 7A requires compliance with the transportation impact fee to be paid prior to approval of building permits.

Compliance with Development Standards

The project meets all Sunnyvale Municipal Code Development standards except for the minimum individual lot sizes and front yard setback. Staff is supportive of reduced lot sizes because it allows for a common lot to be created while maximizing the density on the site, which provides more home ownership opportunities. Staff is also supportive of the reduced front yard setback because it allows the building to have a more architecturally interesting “face” (front elevation).

Downtown Specific Plan

The project has been evaluated using the standards in the Downtown Specific Plan. The Downtown Specific Plan envisions a low-medium density neighborhood with townhouse developments consisting of 2-story residential units and a small backyard. The architectural theme for this district incorporates elements of Sunnyvale’s historic residential architecture and the craftsman style. This proposal’s architecture and site design meet these and other guidelines for the South of Iowa District within the Downtown Specific Plan. In addition, this proposal complements the adjacent residential development and the nearby commercial development.

Expected Impact on the Surroundings

When the project was first brought before the Planning Commission in 2002, issues that were raised at that time included the impacts of the second story windows to the privacy of adjacent properties. This proposal includes large windows on the side elevations of the second story. The middle windows on both side elevations would be required to meet egress requirements, as they are the only window access to the interior bedrooms. The end windows could be reduced in size, as there could be egress through the front and rear windows.

The adjacent property to the south of the subject property is used for a chiropractic office, and therefore, privacy to this structure is not jeopardized. To the north of the subject property is a single-story apartment building. This apartment building is set back from the side property line a distance of 4 feet, while the proposed second story window is set back from the property line 10 feet. In addition, the two mature Coast Live Oak trees provide significant screening between the two structures. Because of the 14-foot separation

between the two structures and the existing vegetation, staff believes that the larger window sizes are appropriate with the proposed architecture and the privacy of the surrounding properties.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Negative Declaration and Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">Published in the <i>Sun</i> newspaperPosted on the site112 notices mailed to the property owners and residents within 300 ft. of the project site	<ul style="list-style-type: none">Posted on the City of Sunnyvale's WebsiteProvided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">Posted on the City's official notice bulletin boardCity of Sunnyvale's WebsiteRecorded for SunDial

Conclusion

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Special Development Permit. Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Conditions of Approval are located in Attachment B.

Alternatives

1. Adopt the Negative Declaration and approve the Special Development Permit and Tentative Map with the attached conditions.
2. Adopt the Negative Declaration and approve the Special Development Permit and Tentative Map with modified conditions.
3. Adopt the Negative Declaration deny the Special Development Permit and Tentative Map.
4. Do not adopt the Negative Declaration and direct staff as to where additional environmental analysis is required.

Recommendation

Alternative 1

Prepared by:

Troy Fujimoto
Project Planner

Reviewed by:

Gerri Caruso
Principal Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Negative Declaration
- D. Site and Architectural Plans

Recommended Findings - Special Development Permit

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as discussed below.

Land Use and Transportation Element

Policy C2.2: Encourage the development of ownership housing to maintain a majority of housing in the city for ownership choice.

Action Statement N1.4.1: Require infill development to complement the character of the residential neighborhood.

The project will provide townhomes for additional homeownership opportunities. The project meets the General Plan Goal of providing at least 75% of the permitted number of residential units. The current development pattern in this neighborhood consists of a mix of single-family and multi-family development within single and multi-story structures. The proposed project is consistent with the design guidelines for the South of Iowa District, and it will complement the character of the existing neighborhood with architectural features such as covered front porches and window details.

Downtown Specific Plan

Goal B: Establish the Downtown as the cultural, retail, financial and entertainment center of the community, complemented by employment, housing and transit opportunities.

Policy B.4: Continue to encourage landscape, streetscape and façade improvements for all streets throughout the downtown.

The project is providing complementary housing options within close proximity to the commercial blocks, promoting walkability and adding population to help support the growing commercial uses of downtown. In addition, the project will improve the on-site landscaping and improve the streetscape through new building facades that incorporate ground level entrances which improves pedestrian interaction of the street and the building.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties as the proposed site design meets the City-Wide Design Guidelines and the design guidelines set forth in the Downtown Specific Plan. In addition, the proposal

exceeds the parking requirement while minimizing paving visible from the street.

Recommended Findings - Tentative Map

In order to approve the Tentative Map, the proposed subdivision must be consistent with the general plan. **Staff finds that the Tentative Map is in conformance with the General Plan.** However, if any of the following findings can be made, the Tentative Map shall be denied. Staff was not able to make any of the following findings and recommends approval of the Tentative Map.

1. That the subdivision is not consistent with the General Plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan.
3. That the site is not physically suitable for the proposed type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
8. That the map fails to meet or perform one or more requirements or conditions imposed by the "Subdivision Map Act" or by the Municipal Code

Staff was not able to make any of the findings (1-8), and recommends approval of the Tentative Map.

Recommended Conditions of Approval - Special Development Permit /Use Permit

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development, major changes may be approved at a public hearing.
- B. Any major site and architectural plan modifications shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing except that minor changes of the approved plans may be approved by staff level by the Director of Community Development.
- C. Execute a Special Development Permit document prior to issuance of the building permit.
- D. The Conditions of Approval shall be reproduced on the cover page of the plans submitted for a Building permit for this project.
- E. The Special Development Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.
- F. The specific deviations allowed with this Special Development Permit include lot sizes less than 2,600 square feet and front yard setbacks less than 18 feet.
- G. All existing and proposed on-site and street frontage electrical, telephone and cable TV services shall be placed underground or removed prior to occupancy (MC 19.38.090).
- H. Any transformer placed between the face of the building and the street shall be placed in an underground vault. At any other location, the transformer shall be screened as approved by the Director of Community Development.

- I. All units shall be pre-wired for electronic communications signal distribution facilities, suitable for use with dish antennas, cable signals, and similar master antenna or other signal distribution services.

2. COMPLY WITH OR OBTAIN OTHER PERMITS

- A. Obtain necessary permits from the Department of Public Works for all proposed off-site improvements.

3. CC&R's (CONDITIONS, COVENANTS AND RESTRICTIONS)

- A. Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney.
- B. The developer/Owner shall create a Homeowner's Association that comports with the state law requirements for Common Interest Developments. Covenants, conditions and restrictions (CC&Rs) relating to the development are subject to approval by the City Attorney and Director of Community Development prior to approval of the Final Map. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:
- C. Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
- D. The homeowners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.
- E. The developer shall maintain all utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to a homeowners association, following sale of at least 75% of the units, whichever comes first.
- F. The CC&Rs shall contain the following requirements:
 1. The Conditions of Approval of this Special Development Permit.
 2. Provisions for long term maintenance of landscaping, parking, driveways, and utility connections.
 3. Posting of no parking signage in shared driveway.
 4. Provisions for a homeowners association.
 5. If either of the two Coast Live Oak trees become diseased or hazardous and require removal, replacement trees shall be large

sized (48-inch box) and genetically large species to be approved by the City Arborist.

6. Tree pruning of the two Coast Live Oak trees shall be conducted in such a way as to preserve the health of the trees while providing room for the structure. Pruning shall be conducted by a certified arborist.

G. The CC&Rs shall contain the following language:

1. "Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each Lot in the Project.
2. It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.
3. It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
4. It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and

agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate provisions of the Sunnyvale Municipal Code or any other applicable law.

5. No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
6. Third-Party Beneficiary. The rights of the City of Sunnyvale pursuant to this Article will be the rights of an intended third party beneficiary of a contract, as provided in Section 1559 of the California Civil Code, except that there will be no right of Declarant, the Association, or any Owner(s) to rescind the contract involved so as to defeat such rights of the City of Sunnyvale.
7. Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property."

4. DESIGN/EXTERIOR COLORS AND MATERIALS

- A. All exterior architectural details that are included in the plans reviewed by the Planning Commission shall be included in the final building plans. These features include, but are not limited to, large roof overhangs, over-scaled brackets, multi-paned windows, window trim, covered front porches and high-quality roofing material.

5. EXTERIOR EQUIPMENT

- A. Individual air conditioning units shall be screened with architecture or landscaping features.

6. FEES

- A. Pay Traffic Impact fee estimated at \$1,930.14, prior to issuance of a Building Permit. (SMC 3.50)

7. FENCES

- A. Design and location of any proposed fencing and/or walls are subject to the review and approval by the Director of Community Development prior to issuance of the building permit. Wherever the grade differential is one foot or higher, a concrete or masonry retaining wall shall be installed.

- B. Only fences, hedges and shrubs or other natural objects 3 feet or less in height may be located within a “vision triangle” (For definition, refer to Vision Triangle brochure or SMC 19.12.040(16), SMC 19.12.050 (12))

8. LANDSCAPING

- A. Landscape and irrigation plans shall be submitted to the Director of Community Development subject to approval by the Director of Community Development prior to issuance of a Building Permit. Landscaping and irrigation shall be installed prior to occupancy. The landscape plan shall include the following elements:
 - 1. All areas not required for parking, driveways or structures shall be landscaped.
 - 2. Ground cover shall be planted so as to ensure full coverage eighteen months after installation.
 - 3. Of new trees installed, 10% shall be 24-inch box size or larger and no tree shall be less than 15-gallon size.
 - 4. Provide storm water infiltration to landscaping areas from roof drains; show method on plans prior to issuance of a Building Permit.
- B. Provide separate meter for domestic and irrigation water systems.
- C. All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition.
- D. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices.
- E. Submit a decorative paving plan for the driveway, indicating details of materials, patterns, and colors for review and approval by the Director of Community Development prior to issuance of the building permit.
- F. Surface runoff pollution control measures shall be provided for parking areas, driveways, roofs and other impervious areas. This may include but not be limited to:
 - 1. Direct rainwater from impervious surfaces to landscaped areas or infiltration devices.
 - 2. Reduce impervious areas by utilizing pervious surfaces.
 - 3. Engineered structural treatment controls or landscape controls.

9. TREE PRESERVATION

- A. Prior to issuance of a Demolition Permit, a Grading Permit or a Building Permit, whichever occurs first, obtain approval of a tree protection plan from the Director of Community Development. Two copies are required to be submitted for approval.
- B. The tree protection plan shall be installed prior to issuance of any Building Permits, subject to the on-site inspection and approval by the City Arborist.
- C. The tree protection plan shall remain in place for the duration of construction.
- D. The tree protection plan shall include measures noted in Sunnyvale Municipal Code Section 19.94.120 and at a minimum:
 - 1. Define tree protection zone at original dripline of preserved trees by 6' (six foot) wire mesh fencing.
 - 2. Prepare wood chip/leaf mulched well manually, and water preserved trees as needed.
 - 3. Development plans shall include designs to maintain original grade within tree protection zone.
 - 4. Landscape plans shall reflect an irrigation design that is compatible to the needs of the protected trees.
 - 5. No trenching, grading, or root cutting within tree protection zone unless approved by consulting Arborist.
 - 6. Plans to construct within tree protection zone must be reviewed and approved by the consulting Arborist.
 - 7. Consulting Arborist shall approve pruning done to accommodate development features.
 - 8. Tree protection zone fencing to remain until all fine grading and final landscape installation.
 - 9. An inventory shall be taken of all existing trees on the plan including the valuation of all 'protected trees' by a certified arborist, using the latest version of the "Guide for Plant Appraisal" published by the International Society of Arboriculture (ISA).
 - 10. All existing (non-orchard) trees on the plans, showing size and varieties, and clearly specify which are to be retained.
- E. Overlay Civil plans including utility lines to ensure that the tree root system is not damaged.

10. LIGHTING

- A. Prior to issuance of a Building Permit submit an exterior lighting plan, including fixture and pole designs, for approval by the Director of Community Development. Driveway and parking area lights shall include the following:
- B. Sodium vapor (of illumination with an equivalent energy savings).
- C. All exterior security lights shall be equipped with vandal resistant covers.
- D. Lights shall have shields to prevent glare onto adjacent residential properties.

11. PARKING

- A. All covered spaces/garage spaces shall be assigned spaces.
- B. No parking space shall be offered for rent by the property owners or homeowners association.
- C. Garage and carport spaces shall be maintained at all times so as to allow for parking of vehicles.
- D. Storage of any vehicle longer than 18 feet intended for recreation purposes including land conveyances, vessels and aircraft, but excluding attached camper bodies and motor homes, shall be prohibited on the premises.
- E. Provide spaces in garages and carports for garbage and recycling totes.

12. STORAGE

- A. Unenclosed storage of any kind shall be prohibited on the premises.

13. UNDERGROUND UTILITIES

- A. A copy of an agreement with affected utilities companies for existing overhead utilities which are on-site or within adjoining rights-of-way shall be provided to the Director of Community Development prior to issuance of a Building Permit or a deposit or bond in an amount sufficient to cover the cost of undergrounding shall be made with the City.

14. MISCELLANEOUS

- A. Prior to commencement of new construction remove all debris, structures, area light poles, and paving from the site.

15. TENTATIVE MAP CONDITIONS**A. Planning**

1. The Tentative Map shall be valid for a period of two years, measured from the date of approval by the final review authority.
2. The Tentative Map shall be applicable only in conjunction with a valid Special Development Permit.
3. Building permits for the lot or lots within a recorded Final Map may be issued only in accordance with a valid Special Development Permit.
4. Any proposed Deeds, Covenants, Restrictions and By-Laws relating to the subdivision shall be submitted for review and approval by the Director of Community Development and the City Attorney.
5. At the expense of the subdivider, City forces shall install such street trees as may be required by the Public Works Department.
6. Full development fees shall be paid for each project parcel and the fees shall be calculated in accordance with City Resolutions current at the time of payment.
7. Pay Park In-lieu fees estimated at \$22,460.64, prior to approval of the Final Map or Parcel Map. (SMC 18.10)

B. Public Works

1. Record a Final Map
2. Provide a current title report and all other official records pertaining to the property prior to Final Map recordation.
3. Dedicate a shared easement at over the common lot prior to issuance of a Building Permit or Final Map.
4. At the expense of the subdivider, City staff shall install required street trees of a species determined by the Public Works Department. Obtain approval of a detailed landscape and irrigation plan from the Director of Community Development (SMC 19.38.070) prior to issuance of a Building Permit.
5. Right-of-Way Improvements
 - a Obtain a Development Permit from the Department of Public Works for improvements.
 - b Curbs, gutters, sidewalks, streets, utilities, traffic control signs, electroliers (underground wiring) shall be designed, constructed and/or installed in accordance with City

standards prior to occupancy. Plans shall be approved by then Department of Public Works.